

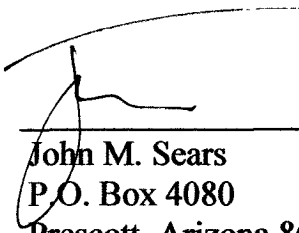
BY: V. Adams

disclose within thirty (30) days “a list of all prior acts of the defendant which the prosecutor intends to use to prove motive, intent, or knowledge or otherwise use at trial.” The State has never done this. Nonetheless, the State has responded to this motion by declaring that they intend to offer an incredible array of gossip, rumor and

1 innuendo disguised as Rule 404(b) evidence, and have asked this Court to set an
2 evidentiary hearing on that request. No such hearing should be set unless and until the
3 State complies with Rule 15.1, and makes a showing that such acts are not precluded
4 by Rule 404(b) that they are relevant pursuant to Rule 402, and that they are not
5 subject to exclusion pursuant to Rule 403 as unfairly prejudicial when weighed
6 against any alleged probative value. Further, the fact that the State has waited until the
7 filing of this motion and less than four (4) months from the start of trial to raise most
8 of these issues for the first time without any attempt to comply with the disclosure
9 rules involving the proposed use of such evidence is an independent reason for this
10 Court to act now to stop this process in its tracks. To allow the State to press on with
11 this effort to replace actual evidence of guilt with the worst sort of salacious and
12 scandalous attacks on Mr. DeMocker's character in the guise of 404(b) will surely
13 result in a dogfight on the eve of trial about this issue. That can be avoided right now
14 with an order *in limine* precluding this evidence, as requested.
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19 DATED this 8th day of January, 2010.

20 By:


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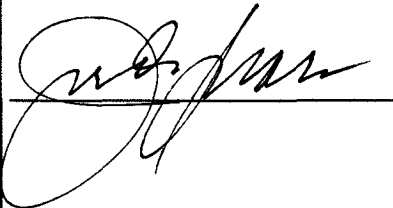
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3 **ORIGINAL** of the foregoing filed
4 this 8th day of January, 2010, with:

5 Jeanne Hicks
6 Clerk of the Court
7 Yavapai County Superior Court
8 120 S. Cortez
9 Prescott, AZ 86303

10 **COPIES** of the foregoing hand delivered
11 this 8th day of January, 2010, to:

12 The Hon. Thomas B. Lindberg
13 Judge of the Superior Court
14 Division Six
15 120 S. Cortez
16 Prescott, AZ 86303

17 Joseph Butner, Esq.
18 Office of the Yavapai County Attorney
19 Prescott courthouse drawer
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A handwritten signature in dark ink, appearing to read 'Joseph Butner', is written over a horizontal line. The signature is fluid and cursive.